IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

Bail Appl..No. 4109 of 2007()

CRIME NO.233/07 OF ARANMULA POLICE STATION
CRMP.1113/2007 of DISTRICT COURT, PATHANAMTHITTA

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PETITIONERS/A1 & 2

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1. PRAKASH KUMAR,S/O.SADASIVAN,
   MELEKIZHAKKETHIL,KOZHENCHERI MURI,
   KOZHENCHERY VILLAGE.

2. RENJU VARGHESE,NALLEPPARAMBIL,
   MEMMURIYIL,NARANGANAM P.O,KOZHENCHERY.

BY ADV. SRI.SANTHOSH P.ABRAHAM

RESPONDENTS:

STATE OF KERALA REPRESENTING S.H.O
ARANMULA POLIE STATION,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4109 of 2007

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Dated this the 16th day of July, 2007

O R D E R

Application for regular bail. The petitioners are accused 1 and 2. Altogether there are four accused persons. The crux of the allegations is that the defacto complainant, who was travelling in a car stopped his car on seeing a number of persons assembled on the public road. The car was stopped. The driver was pulled out of the car. The occupants in the car as well as the driver were assaulted. The accused allegedly went away with the car and they abandoned the car some where and allegedly removed the C.D. and an amount of Rs.20,000/- which was allegedly available in the car. The incident took place on 29.4.2007 at midnight. The defacto complainant lodged the complaint before the police on the next day by about 9 a.m. only. Four accused persons were named. The third accused was allegedly an advocate, who was specified by name. But later, on the plea that a mistake was made by the defacto complainant in the identification of the third accused, the said advocate was removed from the array of accused and a different person was included as the

third accused. Accused 1, 2 and 4 have already been arrested. A4 has already been released from custody. The petitioners are continuing in custody from 5.5.2007 (A1) and 30.4.2007 (A2) respectively.

1. 2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. The real incident did not take place in the manner alleged by the prosecution at all. On that night there was an accident, in which the vehicle in which the defacto complainant was travelling, had knocked down the 4th accused. The 4th accused had suffered injuries. The defacto complainant sped away without stopping the vehicle. The vehicle was followed by the 4th accused and some others, who had witnesses the occurrence. Apprehending that they will be caught, they had abandoned the car and ran away. The police is blindly supporting the defacto complainant. Realising their helplessness, the accused filed a private complaint on 2.7.2007. The same has been referred under Section 156(3) Cr.P.C. In that the real incident had allegedly been narrated. The police have now hurriedly come to the conclusion that the complaint filed by the 4th accused is false and that the complaint filed by the defacto complainant is correct. There are too many loose ends in the prosecution version. Why the complaint

was not filed by the defacto complainant immediately after his vehicle was thieved and taken away by the miscreants is not revealed. The defacto complainant was allegedly taken to the same hospital, where the 4th accused had already been admitted earlier. Pointed attention on these aspects has not been riveted by the Investigating Officer. At any rate, the accused had been continuing in custody for a long period of time. They may now be enlarged on bail, submits the counsel.

3. The learned Prosecutor opposes the application on the ground that accused 1 and 2 have questionable antecedents. The third accused subsequently arrayed has not so far been arrested. In these circumstances the petitioners may not be granted bail now, submits the Prosecutor.

4. I have heard the learned counsel for the petitioners and the learned Prosecutor in detail. As my curiosity and doubts were aroused the Prosecutor was directed to produce both the case diaries. I shall at this stage scrupulously avoid any detailed discussion on merits about the acceptability of the allegations raised or the credibility of the data collected. I do find that there are many loose ends in the prosecution version urged. In any view of the matter, I am satisfied that the petitioners can be enlarged on bail, subject to appropriate conditions.

5. In the result:

1) This application is allowed.

2) The petitioners shall be released on bail on the following terms and conditions.

(a) They shall execute bonds for Rs.50,000/- (Rupees fifty thousand only) each with two solvent sureties each for the like sum to be satisfaction of the learned Magistrate.

(b) They shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 12 noon on all Mondays and Fridays for a period of three months from the date of their release.

(R. BASANT)
Judge

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